

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

2008 MAY -1 AM 11:51

UNITED STATES OF AMERICA,

Plaintiff,

v.

Eustolio MARTINEZ-Hernandez,

Defendant

Magistrate Docket No.

08 MJ 1378

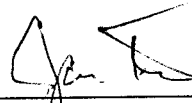
COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326  
Deported Alien Found in the  
United States

The undersigned complainant, being duly sworn, states:

On or about **April 30, 2008** within the Southern District of California, defendant, **Eustolio MARTINEZ-Hernandez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT  
James Trombley  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 1<sup>st</sup> DAY OF MAY, 2008



Nita L. Stormes  
UNITED STATES MAGISTRATE JUDGE

**CONTINUATION OF COMPLAINT:**  
**Eustolio MARTINEZ-Hernandez**

**PROBABLE CAUSE STATEMENT**

On April 29, 2008, Senior Border Patrol Agent Schneeberger was assigned to border patrol operations in the vicinity of Jamul, California. This area is located approximately seven miles west of the port of entry in Tecate, California, and approximately five miles north of the International Boundary between the United States and Mexico.

At approximately 11:30 PM, Agent Schneeberger responded to a report from Border Patrol dispatch regarding possible illegal alien activity near Jamul, California. This area is approximately five miles north of the International Border between the United States and Mexico. Upon arriving in the area, Agent Schneeberger located fresh footprints. Agent Schneeberger followed the footprints and encountered seven individuals. Agent Schneeberger identified himself as a Border Patrol Agent and questioned the seven individuals regarding their citizenship. All seven including one later identified as the defendant **Eustolio MARTINEZ-Hernandez**, stated that they are citizens and nationals of Mexico illegally present in the United States. On April 30, 2008 at approximately 12:05 A.M., all seven individuals, including the defendant were arrested and transported to Brown Field Station for processing.

Routine record checks of the defendant revealed an immigration history. The defendant's record was determined by a comparison of his immigration record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on February 26, 2008 through Calexico, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was read his Miranda rights, which he acknowledged and was willing to make a statement without an attorney present. The defendant stated that he was a citizen and national of Mexico without valid immigration documents to enter or remain within the United States legally. He stated his intended destination was San Jose, California.